

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
CENTURY SURETY COMPANY,

Plaintiff,

-v-

RUKH ENTERPRISES, INC. et al.,

Defendants.  
-----X

17-CV-0633 (JMF)

JUDGMENT

JESSE M. FURMAN, United States District Judge:


This action concerns disputed insurance coverage obligations of Century Surety Company (“Century Surety”) for a personal injury lawsuit brought against multiple defendants, including Rukh Enterprises, Inc. (“Rukh”), Metropolitan Transit Authority, and Long Island Railroad in New York State Supreme Court (the “Underlying Action”). *See* ECF No. 1 (“Compl.”), at 7.<sup>1</sup> The parties dispute (1) whether an independent contractor exclusion in the Century Surety policy issued to Rukh bars coverage and (2) the primacy of the Century Surety policy’s coverage. *See generally* ECF Nos. 64 & 69. The Court previously held that the Century Surety policy is a true excess policy, but held that the question of whether the independent contractor exclusion applied presents fact questions requiring trial. *See* ECF No. 75.

The Court is now advised by the attorneys for the parties that the Underlying Action has settled for \$3.5 million; that the \$3.5 million settlement has been paid out of three different insurance policies, none of which was issued by Century Surety; and that the \$3.5 million settlement payment did not exhaust the relevant policy. In light of these facts, and the Court’s prior holding that the Century Surety policy is a true excess policy, Century Surety is entitled to, and GRANTED, a declaratory judgment that it is not obligated to provide insurance coverage for the Underlying Action. The Court need not, and will not, resolve the parties’ dispute regarding the independent contractor exclusion. Accordingly, trial is canceled.

The Clerk of Court is directed to enter judgment in favor of Century Surety and to close this case. All motions are moot. All conferences, including trial, are canceled.

SO ORDERED.

Dated: March 3, 2020  
New York, New York

  
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JESSE M. FURMAN  
United States District Judge

<sup>1</sup> All record citations are to the docket in 17-CV-633 (JMF) unless otherwise noted.